

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**UNITED STATES OF AMERICA**

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**CRIMINAL DOCKET NO. 11-207**

**v.**

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**SECTION: B**

**YOSSEL EUSEBIO VALENCIA-LACAYO \***

**a/k/a Yossel E. Valencia**

**a/k/a Yossel Valencia**

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**FACTUAL BASIS**

Should this matter have gone to trial, the government would have proven, through the introduction of competent testimony and admissible, tangible exhibits, the following facts, beyond a reasonable doubt, to support the allegations in the indictment now pending against the defendant:

The Defendant, **YOSSEL EUSEBIO VALENCIA-LACAYO** (hereinafter “**VALENCIA**”) has agreed to plead guilty as charged to the two-count indictment charging him with making a false statement during the purchase of a firearm, in violation of Title 18, United States Code, Section 922(a)(6), and shipping firearms without notice to the contract carrier, in violation of Title 18, United States Code, Section 922(e).

A Homeland Security Investigations (hereinafter "HSI) agent would testify that on or about March 24, 2010, HSI agents and Customs and Border Protection (hereinafter "CBP") officers physically examined an outbound container identified as SMLU8495834 at the Port of New Orleans that was destined for Honduras. The container was listed as being shipped by Dip Shipping Company in Miami Florida, and the ultimate consignee was Dip Shipping Company in La Ceiba, Honduras. The commodities listed for export included electrical appliances, toys, furniture, paint, printers, clothes, boat parts, and personal effects. The shipment was scheduled to be exported from New Orleans, Louisiana to Honduras on March 24, 2010 via the cargo vessel M/V Marchaser.

During examination of the container, HSI and CBP agents discovered a blue storage bin addressed to Anibal Lacayo in La Ceiba, Atlantida, Honduras, according to warehouse receipt no. 201479. Inside the storage bin, HSI and CBP agents found five handguns manufactured by Beretta, Glock, and Smith & Wesson, and all were inside gun cases that were concealed in duct tape and foil and were co-mingled and concealed within boxes of clothing and household goods. The firearms were identified as a Beretta Model 92FS, 9mm pistol, bearing serial number M52316Z; a Beretta Model 92FS, 9mm pistol, bearing serial number J30681Z; a Smith & Wesson Model 686, .357 caliber revolver, bearing serial number CMT3935; a Smith & Wesson Model 686, .357 caliber revolver, bearing serial number CNE2954; and a Glock Model 34, 9mm pistol, bearing serial number HWE429. HSI and CBP agents seized the firearms.

An employee of Dip Shipping Company would positively identify the shipper of the box containing the ammunition as the defendant, **VALENCIA**. Dip Shipping Company is a contract carrier that exports goods from the United States to foreign countries. The Dip Shipping Company employee would testify that on March 23, 2010, **VALENCIA** dropped off one box and one container

at their office in Kenner, Louisiana for shipment to Honduras. These packages were addressed to Anibal Lacayo in La Ceiba, Atlantida, Honduras. **VALENCIA** did not notify Dip Shipping Company that the packages he delivered for foreign shipment contained firearms.

**VALENCIA** agreed to be interviewed by HSI agents and agents of the Bureau of Alcohol, Tobacco, Firearms and Explosives (hereinafter "ATF") on October 20, 2010 at a residence. During this interview, **VALENCIA** told the agents that he shipped weapons to Honduras through Dip Shipping Company earlier in 2010. **VALENCIA** said that his grandfather owns a farm in Honduras, and the firearms he shipped were purchased for the workers on the farm. He said that the workers asked his grandfather for the guns and his grandfather asked **VALENCIA** and others to purchase and send the guns to Honduras. **VALENCIA** told agents that workers on his grandfather's farm specify which firearms they want to purchase. Arrangements are then made for the workers to send money to the gun buyer, for the workers to pay his grandfather, or for the purchaser to pay for the guns and be reimbursed later.

**VALENCIA** told agents that he purchased the Glock Model 34, 9mm pistol, bearing serial number HWE429, at a gun show in Slidell, Louisiana. **VALENCIA** explained that after purchasing this gun, he took it to a relative's residence in New Orleans, and there, the Glock Model 34 along with four other firearms were packaged and placed in a container for shipment. **VALENCIA** then transported the container to Dip Shipping for export to Honduras. HSI agents showed **VALENCIA** photographs of the five firearms that were seized on March 24, 2010, and he acknowledged that those were the five guns he shipped. The interview was concluded.

An ATF agent would testify that **VALENCIA** later agreed to meet with ATF and HSI agents for a follow-up interview on October 27, 2010. When **VALENCIA** arrived at the ATF office in

Metairie, Louisiana on October 27, 2010, the ATF agent advised **VALENCIA** of his *Miranda* rights, and **VALENCIA** agreed to speak with the agents and waived his rights. **VALENCIA** told the agents that although he did not know the firearms were wrapped in foil and duct tape, he knew they were packaged with other items to conceal them so they would not be detected. **VALENCIA** stated that when he became aware the firearms were missing from the shipment to Honduras, he reported missing tools and clothes to Dip Shipping Company, which gave him a claim form that he never filled out and returned. He said he never reported missing weapons to Dip Shipping Company. **VALENCIA** told the agents that guns in Honduras are more expensive than in the United States. He also stated that Honduran officials would likely seize the guns if they were caught being shipped into Honduras.

An ATF agent would testify that the five guns found in the investigation would be classified as firearms pursuant to Federal law. The ATF agent would further testify that **VALENCIA**, Dip Shipping Company, and the intended recipients of the shipment, were not licensed importers, licensed manufacturers, licensed dealers, or licensed collectors who were allowed to ship firearms in foreign commerce.

An employee of Ken's Bayou Archery in Slidell, Louisiana would testify that he sold the Glock Model 34, 9mm pistol, bearing serial number HWE429, to **VALENCIA** at a gun show in Slidell on March 20, 2010. The employee would testify that Ken's Bayou Archery is an ATF-licensed dealer of firearms, and the license would be introduced into evidence. The Ken's Bayou Archery employee would testify that **VALENCIA** completed an ATF Form 4473 during his purchase of the Glock Model 34, and signed that form. The employee would testify that Ken's Bayou Archery kept the ATF Form 4473 on file as required by ATF-licensed dealers. Question 11a.

on the ATF Form 4473 asks, “Are you the actual transferee/buyer of the firearm listed on this form?”

**VALENCIA** checked “Yes” in answer to that question. The ATF Form 4473 would be introduced into evidence.

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ROBERT WEIR  
Special Assistant United States Attorney

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Date

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YOSSEL EUSEBIO VALENCIA-LACAYO  
Defendant

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Date

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MARTIN E. REGAN, JR.  
Attorney for Defendant

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Date